

FORM TO BE USED BY A PRISONER IN FILING A CIVIL RIGHTS COMPLAINT

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DN-6325
(Inmate Number)

Jeffrie McKinzie
(Name of Plaintiff)

375 Prison Road
(Address of Plaintiff)

Waynesburg, PA 15370-9941

vs.

Kenneth Kyler, Superintendent

1100 Pike Street

Huntingdon, PA 16654-1112
(Names of Defendants)

1 : CV 00-2159
(Case Number)

COMPLAINT
FILED
SCRANTON

DEC 13 2000

PER _____
DEPUTY CLERK

TO BE FILED UNDER: ☒ 42 U.S.C. § 1983 - STATE OFFICIALS
_____ 28 U.S.C. § 1331 - FEDERAL OFFICIALS

I. Previous Lawsuits

- A. If you have filed any other lawsuits in federal court while a prisoner please list the caption and case number including year, as well as the name of the judicial officer to whom it was assigned:

II. Exhaustion of Administrative Remedies

- A. Is there a grievance procedure available at your institution?
☒ Yes ☐ No

- B. Have you filed a grievance concerning the facts relating to this complaint?
☒ Yes ☐ No

If your answer is no, explain why not _____

- C. Is the grievance process completed? ☒ Yes ☐ No

Additional Defendants

- 2) A. Scott Williamson, Deputy Superintendent

SCI-Huntingdon

1100 Pike Street

Huntingdon, PA 16654-1112

- 3) Patricia Yarger, CHCA

SCI-Huntingdon

1100 Pike Street

Huntingdon, PA 16654-1112

- 4) P.E. Everheart, Nurse Supervisor

SCI-Huntingdon

1100 Pike Street

Huntingdon, PA 16654-1112

- 5) Ms. Mills, PAC (First Name Unknown)

SCI-Huntingdon

1100 Pike Street

Huntingdon, PA 16654-1112

- 6) Mr. Reiner, Doctor (First Name Unknown)

SCI-Huntingdon

1100 Pike Street

Huntingdon, PA 16654-1112

III. Defendants

(In Item A below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use Item B for the names, positions and places of employment of any additional defendants.)

A. Defendant See Attached Sheet is employed
as _____ at _____

B. Additional defendants See Attached Sheet

IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach extra sheets if necessary.)

1. See Attached Sheet

2. _____

3. _____

Factual Allegations

1) On May 17, 1999, the plaintiff was examined by Dr. Reiners and diagnosed with a left hiatal hernia that was easily reducible.

2) Despite the plaintiffs protestations of pain, anxiety, and restricted activity, the doctor decided that surgery was not required and said to return to sick call if the hernia became incarcerated.

3) Plaintiff wrote numerous request slips and was seen by the doctor on 5/20/99, 5/25/99, 12/29/99, 1/13/00, and 2/08/00, and advised the doctor of the continued pain, anxiety, and restriction of activity, yet he chose to ignore these facts.

4) I wrote request slips and spoke to PAC Mills, Pat Yarger, P.E. Everheart, A. Scott Williamson, and Kenneth Kyler about my pain and suffering, anxiety, and restricted activity, but they chose to ignore these facts.

5) The defendants named have responded to me that I should return to sick call if the hernia becomes incarcerated or strangulated.

6) On 2/19/00, I filed a grievance against the stated staff alleging denial of needed surgery and deliberate indifference to my serious medical needs.

7) On 2/25/00, the grievance coordinator, Pat Yarger, issued her findings to the degree that the staff were

providing adequate medical care, they were not deliberately indifferent to my serious medical needs, and that they would perform surgery when it was needed.

8) The defendants were aware of my continued pain and suffering, my anxiety about the hernia, and the restricted activity, and they were also aware that the surgery could have alleviated the pain and suffering, yet they chose not to perform the surgery.

9) Plaintiff was transferred to his present place of incarceration, SCI-Waynesburg, on July 12, 2000.

10) Surgery was deemed needed and performed on October 17, 2000.

11) The surgery alleviated all of the plaintiffs problems.

V. Relief

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

1. Award compensatory damages jointly and severally against
all defendants in their individual capacity.
2. Award punitive damages jointly and severally against
all defendants in their individual capacity.
3. Award costs of litigation jointly and severally against
all defendants in their individual capacity.

Signed this 04 day of December, 192000

Archie S. Mobayie
(Signature of Plaintiff)

I declare under penalty of perjury that the foregoing is true and correct.

December 04, 2000
(Date)

Archie S. Mobayie
(Signature of Plaintiff)

**FORMS TO BE COMPLETED BY PRISONERS FILING A CIVIL RIGHTS
COMPLAINT UNDER 42 U.S.C. § 1983 or 28 U.S.C. § 1331**

COVER SHEET

THIS COVER SHEET CONTAINS IMPORTANT INFORMATION ABOUT FILING A COMPLAINT AND YOUR OBLIGATIONS IF YOU DO FILE A COMPLAINT. READ AND COMPLETE THE COVER SHEET BEFORE YOU PROCEED FURTHER.

The cost for filing a civil rights complaint is \$150.00.

If you do not have sufficient funds to pay the full filing fee of \$150.00 you need permission to proceed *in forma pauperis*. However, the court will assess and, when funds exist, immediately collect an initial partial filing fee of 20 percent of the greater of:

- 1) the average monthly deposits to your prison account for the past six months; or
- 2) the average monthly balance in your prison account for the past six months.

Thereafter, the institution in which you are incarcerated will be required to make monthly payments of 20% of the preceding month's deposits credited to your account until the entire filing fee is paid.

CAUTION: YOUR OBLIGATION TO PAY THE FULL FILING FEE WILL CONTINUE REGARDLESS OF THE OUTCOME OF YOUR CASE, EVEN IF YOUR COMPLAINT IS DISMISSED BEFORE THE DEFENDANTS ARE SERVED.

1. You shall file a complaint by completing and signing the attached complaint form and mailing it to the Clerk of Court along with the full filing fee of \$150.00. (In the event attachments are needed to complete the allegations in the complaint, no more than three (3) pages of attachments will be allowed.) If you submit the full filing fee along with the complaint, you **DO NOT** have to complete the rest of the forms in this packet. Check here if you are submitting the filing fee with the complaint form. _____

2. If you cannot afford to pay the fee, you may file a complaint under 28 U.S.C. § 1915 without paying the full filing fee at this time by completing the following: (1) Complaint Form; (2) Application To Proceed In Forma Pauperis; and (3) Authorization Form. You must properly complete, sign and submit all three standard forms or your complaint may be returned to you by the Clerk of Court. Check here if you are filing your complaint under 28 U.S.C. § 1915 without full prepayment of fees. x

Please Note: If your case is allowed to proceed and you are awarded compensatory damages against a correctional facility or an official or agent of a correctional facility, the damage award will first be used to satisfy any outstanding restitution orders pending. Before payment of any compensatory damages, reasonable attempts will be made to notify the victims of the crime for which you were convicted concerning payment of such damages. The restitution orders must be fully paid before any part of the award goes to you.

DO NOT DETACH THE COVER SHEET FROM THE REST OF THE FORMS